

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WAYNE PARKER
2874 Odesa Drive
Medina, Ohio 44256

Plaintiff

vs.

MEDTRONIC SOFAMOR DANEK USA,
INC.
DBA MEDTRONIC
1800 Pyramid Place
Building A
Memphis, TN 38132

Defendant.

CASE NO.

JUDGE

COMPLAINT/JURY DEMAND

Jury Demand Endorsed Hereon

NOW COMES the Plaintiff and for his Complaint against the Defendant, states as follows:

1. This is a civil action which this Court has original jurisdiction under 28 U.S.C. Section 1322.
2. Plaintiff is a resident of the State of Ohio
3. Medtronic Sofamor Danek USA, Inc., dba Medtronic , hereinafter referred to as Medtronic, is a corporation with principal places of business in Memphis Tennessee and Minneapolis, Minnesota. Although it has other offices throughout the United States, it has none in Ohio.
4. That jurisdiction, venue and timeliness of filing have all been agreed to and/or stipulated to by the parties.

5. At all times herein mentioned, Defendant Medtronic was doing business as a maker, manufacturer and distributor of spinal implants to be used during surgical procedures.
6. On or about June 6, 2014, Plaintiff, Wayne Parker, was a patient at the Cleveland Clinic in Cuyahoga County, Ohio and received an anterior cervical discectomy with interbody arthrodesis C4-5, C5-6 and C6-7 with the use of structural allograft and use of anterior cervical plate fixation. The anterior cervical plate system and surgical technique were those designed and manufactured under the name Venture and designed, manufactured and distributed by Defendant, Medtronic.
7. On or about September 22, 2014, a second surgery was performed on Plaintiff due to the potential loosening of the cervical screw manufactured by Defendant. At that time, it was noticed that the right C7 anterior cervical screw was noted to be backed out approximately 4 to 5 millimeters and was removed and the screw hole filled.
8. Subsequently, on or about March 10, 2015, it was noted that the left sided surgical screw at C7 was also anteriorly displaced approximately 8 millimeters.
9. An additional surgery has not been scheduled to remove that screw at the present time.
10. Defendant was negligent in the design and manufacture of the screws in question that were used during Plaintiff's surgery and as a result he has needed one additional surgery for removal of the failed screw and still has an additional failed screw floating in his body.
11. Defendant breached the implied warranty of merchantability as regards to the venture anterior cervical plate system manufactured and distributed by it.

12. Defendant breached its implied warranty of fitness for the particular purpose for which it was designed as to the venture anterior cervical plate system manufactures and distributed by it.
13. Defendant breached an express warranty of promise and description as to the venture anterior cervical plate system manufactured and distributed by it.
14. As a direct and proximate result of the negligent acts and breach of warranties by Defendant as set forth above, Plaintiff, Wayne Parker has sustained pain and suffering has had to endure additional surgeries, and has a failed screw in his body causing him great anxiety and concern. Plaintiff was caused to seek medical care, treatment and expense, and is reasonably likely to incur future medical care treatment, expense in the future with damages in excess of \$75,000.00.

WHEREFORE, Plaintiff, Wayne Parker, demand judgment against the Defendant, in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) and attorney fees, together with the costs of this action.

Respectfully submitted,


LALLO & FELDMAN CO., L.P.A.



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JURY DEMAND

A trial by jury with the maximum number of jurors allowed by law is hereby demanded.



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LALLO & FELDMAN CO., L.P.A.
Attorney for Plaintiff, Wayne Parker

